

Response
Applicants: Patrick P. Russo et al.
Serial No.: 10/074,740

Attorney Docket: EV31014US

REMARKS

Claims 2 to 11, 13, 15 to 21, 25, 27, and 31 to 38 are pending in this application.

The Examiner rejected claims 2 to 11, 13, 15 to 21, 25, 27, and 31 to 38 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,485,501 B1 (Green). Applicants respectfully traverse this rejection of the claims. Independent claims 8, 17, 27, and 35 each require:

the wall having an undeflected configuration prior to retrieval of the medical device into the lumen and a deflected configuration during retrieval of the medical device into the lumen, ... a distance between proximal and distal ends of the wall is less in the deflected configuration than in the undeflected configuration.

Green does not disclose or suggest that the distance between the proximal and distal ends of the distal tip wall is less in the deflected configuration, during medical device retrieval, than in the undeflected configuration, before medical device retrieval. Claims 8 and 35 require that the distal end of the wall of the distal tip is rolled inwardly in the deflected configuration. Green does not disclose or suggest this feature of the claims.

The Examiner contends that Green discloses catheters having flexible tips including walls capable of forming into a deflected configuration during retrieval of the medical device into the lumen and that the contact with the medical device could cause the distal tip of Green to curve inwards. Applicants disagree. Green does not explicitly disclose a deflected configuration in which the distal tip curves inwardly. The Examiner's position is that the device of Green could be used so that it deflects the distal tip and causes the distal tip to curve inwardly. Applicants' position is that Green does not teach or suggest (i) a deflected configuration or (ii) a deflected configuration in which the distance between proximal and distal ends of the wall is less in the deflected configuration than in

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the undeflected configuration. Green certainly does not teach or suggest a distal tip having both (i) a deflected configuration and (ii) a deflected configuration in which the distance between proximal and distal ends of the wall is less in the deflected configuration than in the undeflected configuration. Further, Green does not teach or suggest that the distal end of the wall of the distal tip is rolled inwardly in the deflected configuration, as required by claims 8 and 25. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection of the claims.

The Examiner rejected claims 2 to 11, 13, 15 to 21, 25, 27, and 31 to 36 under 35 U.S.C. § 102(e) as anticipated by U.S. Pat. No. 6,616,681 B2 to Hanson et al. Applicants respectfully traverse this rejection of the claims. Independent claims 8, 17, 27, and 35 each require:

the wall having an undeflected configuration prior to retrieval of the medical device into the lumen and a deflected configuration during retrieval of the medical device into the lumen, ... a distance between proximal and distal ends of the wall is less in the deflected configuration than in the undeflected configuration.

Hanson et al. does not disclose or suggest that, during medical retrieval, the distal tip wall is in a deflected configuration. Claims 8 and 35 require that the distal end of the wall of the distal tip is rolled inwardly in the deflected configuration and that the deflected configuration is caused by the medical device having a diameter greater than the distal tip. Hanson et al. does not disclose or suggest these features of the claims.

The Examiner contends that Hanson et al. discloses catheters having flexible tips including walls capable of forming into a deflected configuration during retrieval of the medical device into the lumen and that the contact with the medical device could cause the distal tip of Hanson et al. to curve inwards. The Examiner further contends that as the cone tip (960) folds proximally at hinge

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(943), it is inherently rolled inwardly towards the lumen, forming a rolled tip. Applicants disagree. Hanson et al. does not explicitly disclose a deflected configuration in which the distal tip curves inwardly. The Examiner's position is that the device of Hanson et al. could be used so that it deflects the distal tip and causes the distal tip to curve inwardly. Applicants' position is that Hanson et al. (i) does not teach or suggest a deflected configuration, and (ii) does not teach a deflected configuration caused by the medical device having a diameter greater than the distal tip, as required by claims 8 and 35. Nothing in Hanson et al. teaches or suggests that the device of Hanson et al. has a deflected configuration. Further, Hanson et al. does not teach or suggest that the distal end of the wall of the distal tip is rolled inwardly in the deflected configuration, as required by claims 8 and 25. A hinge folding proximally is not the same as a wall rolling inwardly. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection of the claims.

The Examiner rejected claims 2 to 11, 13, 15 to 21, 25, 27, and 31 to 38 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,663,651 B1 (Krolik et al.). Applicants respectfully traverse this rejection of the claims. Independent claims 8, 17, 27, and 35 each require:

the wall having an undeflected configuration prior to retrieval of the medical device into the lumen and a deflected configuration during retrieval of the medical device into the lumen, ... a distance between proximal and distal ends of the wall is less in the deflected configuration than in the undeflected configuration.

Krolik et al. does not disclose or suggest that the distance between the proximal and distal ends of the distal tip wall is less in the deflected configuration, during medical device retrieval, than in the undeflected configuration, before medical device retrieval. Claims 8 and 35 require that the distal end of the wall of the

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distal tip is rolled inwardly in the deflected configuration. Krolik et al. does not disclose or suggest this feature of the claims.

The Examiner contends that Krolik et al. discloses catheters having flexible tips including walls capable of forming into a deflected configuration during retrieval of the medical device into the lumen and that the contact with the medical device could cause the distal tip of Krolik et al. to curve inwards. Applicants disagree. Krolik et al. does not explicitly disclose a deflected configuration in which the distal tip curves inwardly. The Examiner's position is that the device of Krolik et al. could be used so that it deflects the distal tip and causes the distal tip to curve inwardly. Applicants' position is that Krolik et al. does not teach or suggest a deflected configuration in which the distance between proximal and distal ends of the wall is less in the deflected configuration than in the undeflected configuration.

The Examiner contends that if filter 30 contained a large amount of embolic material, the distal tip would deflect and curve inward before the expansion slits 52 permit the sheath 50 to expand and accept the filter. This interpretation is contrary to the specification and figures. Krolik et al. states at column 5, lines 11 to 15, that "[e]xpansion slits 52 permit the curved portions of distal end 51 to expand to accept a vascular filter when adapter 50 is advanced along guidewire 59, so that opening 53 at least partially accommodates a portion of a deployed vascular filter." See, Figure 5B, which shows the filter 30 being received within adapter 50. As described in the specification in column 5, and shown in Fig. 5B, the distance between proximal and distal ends of the wall is the same in the deflected configuration and in the undeflected configuration. This contrasts with the claimed invention in which the distance between proximal and distal ends of the wall is less in the deflected configuration than in the undeflected configuration.

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Further, Krolik et al. does not teach or suggest that the distal end of the wall of the distal tip is rolled inwardly in the deflected configuration, as required by claims 8 and 25. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection of the claims.

In view of the above amendments and remarks, Applicants respectfully request that the Examiner withdraw the rejections of the claims.

If any additional fees are due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 16-2312. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our deposit account.

Respectfully submitted,

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By



Customer No. 009561

Terry L. Wiles (29,989)

Patrick J. O'Connell (33,984)

Cecilia Jaisle (28,824)

POPOVICH, WILES & O'CONNELL, P.A.

650 Third Avenue South, Suite 600

Minneapolis, MN 55402-1911

Telephone: (612) 334-8989

Attorneys for Applicants